

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

WILLIAM R. CARROLL, et al	*	
Plaintiff	*	CIVIL ACTION NO.
v.	*	MJG-02-CV-2084
BENJAMIN J. MARTIN, et al	*	
Defendants	*	

\* \* \* \* \*

**MOTION FOR APPROPRIATE RELIEF TO COMPEL DISCLOSURE OF F.R.C.P.  
26(a)(2) INFORMATION WITH REGARD TO THE TESTING WHICH SUPPORTS  
THE OPINION OF THE PLAINTIFFS' EXPERT MEDICAL WITNESS, DR.  
FRANCIS J. FISHBURNE**

Benjamin J. Martin and Lamtech, Inc., Defendants, by Michael B. Mann, their attorney, file this Motion for Appropriate Relief to require disclosure of the test reports which support the opinion of the plaintiffs' expert medical witness, Dr. Francis Fishburne, for the following reasons:

1. On or about May 5, 2003, the attorney for the plaintiffs forwarded to the defendants a copy of the report of the plaintiffs' medical expert, Dr. Francis Fishburne, dated May 2, 2003, concerning his expert opinion with regard to the mental state of the plaintiff, William Carroll.

2. Once the attorney for the defendants had received that report, he wrote to the attorney for the plaintiffs on May 13, 2003, requesting a copy of any psychological or intelligence reports or testing relied upon by Dr. Fishburne in reaching his

conclusions in his expert report. (See attached letter of May 13, 2003, attached as Exhibit A.)

3. Once the attorney for the plaintiffs had received that letter, he contacted the attorney for the defendants and indicated that Dr. Fishburne would not release the testing data without the order of court requiring him to do so. The attorney for the plaintiffs indicated that he would consent to an order which required Dr. Fishburne to release that data, but could not gain the cooperation of Dr. Fishburne to do so without the order of this court.

4. The underlying testing and psychological data from Dr. Fishburne is necessary for the attorney for the defendants to evaluate Dr. Fishburne's opinion in this case. Justice requires that the attorney for the defendants be able to review this material, and it seems that all persons involved agree that the disclosure would be appropriate with the order of this court requiring it.

WHEREFORE, Benjamin J. Martin and Lamtech, Inc., Defendants, request that this Court issue an order requiring Dr. Francis Fishburne to forward to the attorney for the defendants all underlying testing, psychological data or intelligence reports which supports the opinions that he has rendered in this case as an expert witness.

\_\_\_\_\_/s/\_\_\_\_\_  
MICHAEL B. Mann  
409 Washington Avenue, #600

Towson, MD 21204  
410-296-6826  
Attorney for Defendants

I hereby certify that on this 1<sup>st</sup> day of August, 2003, a  
copy of the foregoing was sent to:

Henry L. Belsky, Esquire  
20 S. Charles Street, 10<sup>th</sup> Floor  
Baltimore, MD 21201  
Attorney for Plaintiff

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MICHAEL B. Mann

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\* \* \* \* \*

**O R D E R**

ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2003, that the plaintiffs' expert witness, Dr. Francis Fishburne, is hereby ordered to release and forward to the attorney for the defendants, Michael B. Mann, all underlying testing, psychological data or intelligence reports which supports the opinions that he has rendered in this case.

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Beth P. Gesner  
United States Magistrate Judge